

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG**

RAYMOND L. BROWN,

Petitioner,

v.

**CIVIL ACTION NO. 1:04CV18
(BROADWATER)**

**B. A. BLEDSOE,
Warden,**

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge John S. Kaull, dated May 5, 2005. The Petitioner filed objections to the Report on May 31, 2005, after moving for an extension of time to file. The Court accepted the late filed objections and denied as moot the motion for an extension of the filing deadline. In the interests of justice and in accordance with 28 U.S.C. § 636(b)(1), the Court conducted a *de novo* review of the above. Upon review of the facts and law, Court is of the opinion that the Magistrate Judge's Report and Recommendation should be and is hereby **ORDERED** adopted.

Brown argues essentially that he should be given credit for time served between July 2000 and December 2003 against a March 23, 2001 sentence imposed on him for kidnaping and assault. The Respondent argues that the Brown's time served during that period was properly credited towards a 1989 sentence imposed upon the Petitioner.

The Court finds that due to the United States Parole Commission order of February 6, 2001,

correcting its previous orders, the Petitioner's time served from July 10, 2000, through December 28, 2003, was properly applied to his 1989 sentence. The Court further finds that the Parole Commission may reopen a case based on previously existing information that was not considered when the Commission issued its initial orders. Fardella v. Garrison, 698 F.2d 208, 211 (4th Cir. 1982). Therefore, the Court finds that the Petitioner's jail time was properly credited.

Accordingly, the Court **ORDERS** that the petition be **DENIED and DISMISSED WITH PREJUDICE** based on the reasons set forth herein and in the Magistrate Judge's Report and Recommendation. It is further **ORDERED** that this action be and is hereby **STRICKEN** from the active docket of this Court.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

DATED this 31st day of March 2006.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE